

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

CrI.MC.No. 3993 of 2006()

CC.476/2006 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR
CRIME NO.84/06 OF KUNNICODE POLICE STATION, KOLLAM DISTRICT.
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PETITIONER: ACCUSED NOS.2 TO 6

1. MANI, W/O. KUTTAN, AGED 51 YEARS,
PRAKASH BHAVAN, MARUTHAMAN,
THEKKETHERI MURI, PATTAZHI VILLAGE.
2. LAKSHMIKUTTY, W/O. KUTTAN,
AGED 72 YEARS, VELANPARAMBIL,
THEKKETHERI MURI, PATTAZHI VILLAGE.
3. JAYAPRABHA, D/O. MANI, AGED 30 YEARS,
PRAKASH BHAVAN, MARUTHAMAN,
THEKKETHERI MURI, PATTAZHI VILLAGE.
4. JAYAPRAKASH, S/O. KUTTAN, AGED 31 YEARS,
SINDHU BHAVAN, MULLIKKALA PINAPPLE JUNCTION,
ILAMBAL MURI, VILAKKUDI VILLAGE.
5. SINDHU, W/O. JAYAPRAKASH, AGED 29 YEARS,
SINDHU BHAVAN, MULLIKKALA PINAPPLE JUNCTION,
ILAMBAL MURI, VILAKKUDI VILLAGE.

BY ADV. SRI.BIJU M.JOHN

RESPONDENTS: COMPLAINANT - DEFACTO COMPLAINANT/STATE

1. STATE OF KERALA, REP. BY
S.I. OF POLICE, KUNNICODE POLICE STATION,
KOLLAM DISTRICT, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. MAYA, D/O. SUBADRA, AGED 24 YEARS,
KATHUMBAN VEETIL, NEW IRUVELICKAL KALITHATHU,
THEKKETHEVI, PATTAZHI VILLAGE.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 08/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3993 OF 2006

Dated this the 8th day of December, 2006

ORDER

The petitioners face indictment in a prosecution under Secs.496, 120B and 294(b) read with Sec.34 of the IPC. Cognizance has been taken by the learned Magistrate for the offence committed on the basis of a final report submitted by the police, after investigation. The petitioners were released on bail by the learned Magistrate at the crime stage, it is submitted. The petitioners have rushed to this Court without and before appearing before the learned Magistrate with a prayer that the powers under Sec.482 of the Cr.P.C. may be invoked to quash the proceedings against them.

2. What is the reason? The learned counsel for the petitioners only submits that the allegations do not justify the further proceedings against them. They may not be forced to endure the trauma of criminal prosecution against them, it is prayed.

3. Ordinarily and normally, I should expect the accused persons against whom unjustified criminal proceedings are

initiated to appear before the court concerned and claim discharge. That is the ordinary and normal remedy available to a person. Of course, the availability of such a remedy will not inhibit or fetter the powers of this Court under Sec.482 of the Cr.P.C. to quash a criminal prosecution invoking its extraordinary inherent jurisdiction. But that can only be the exception and not the daily routine. That cannot be a matter of course. That cannot be the daily bread of this Court.

4. In the facts and circumstances of this case, I find no exceptional reasons which would justify this Court invoking the powers under Sec.482 of the Cr.P.C.

5. The learned counsel for the petitioner, however, submits that the accused include old persons aged about 70 years. If unnecessary insistence on personal appearance were made, that would work out great prejudice and hardship to the petitioners, it is submitted. I find no reason why, in the facts and circumstances of this case, the learned Magistrate would insist on personal presence of the accused persons on all dates of posting. The petitioners can apply to the learned Magistrate for exemption until they are heard on the question of charge and the court decides that there is reason to frame charge against the

petitioners.

6. In the result, this Crl.M.C. is dismissed; but with the observation that the petitioners can be permitted by the learned Magistrate on their applications to appear through counsel to claim discharge. Only if it is found by the learned Magistrate that the charges are liable to be framed, need the learned Magistrate insist on the personal appearance of the accused, till then the petitioners can be permitted to appear through counsel. In the peculiar facts and circumstances of this case, I am satisfied that the above observation/direction deserves to be made/issued.

(R. BASANT, JUDGE)

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